

ENTERED

January 03, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

EDWARD R. NEWSOME,
(TDCJ #437698)

Petitioner,

v.

LORIE DAVIS,

Respondent.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-17-3313

ORDER OF DISMISSAL

Edward R. Newsome, a Texas state inmate who has accumulated numerous judicial sanctions and preclusion orders, has filed a motion for permission to file a second or successive application for a writ of habeas corpus. Newsome is representing himself and has filed a motion for leave to proceed without prepaying the filing fee.

Newsome seeks to challenge a 1986 conviction for the unauthorized use of a motor vehicle, for which he received a sentence of 39 years' imprisonment. (Harris County Cause Number 441673). Court records reflect that Newsome has filed numerous federal habeas corpus petitions challenging this conviction. *See, e.g., Newsome v. Stephens*, Civil No. 4:15-cv-2524 (S.D. Tex. 2015) (petition dismissed as successive); *Newsome v. Quarterman*, Civil No. 4:09-cv-2027 (S.D. Tex. 2009) (petition dismissed, in part, as successive); *Newsome v. Dretke*, Civil No. 4:04-cv-3233 (S.D. Tex. 2005) (petition dismissed as successive); *Newsome v. Cockrell*, Civil No. 4:02-cv-1620 (S.D. Tex. 2002) (petition dismissed as untimely). A review of the instant motion reveals that Newsome's "new" claims of actual innocence as well as ineffective assistance of counsel at trial and on appeal are similar, if not identical, to old arguments that have been soundly rejected by the courts.

To the extent Newsome may raise any new claims, he has not obtained authorization from the Fifth Circuit to pursue a successive habeas petition. Newsome is required to seek authorization from the Fifth Circuit before this court can consider his application. *See* 28 U.S.C. § 2244(b)(3)(A). “Indeed, the purpose of [28 U.S.C. § 2244(b)] was to eliminate the need for the district courts to repeatedly consider challenges to the same conviction unless an appellate panel first found that those challenges had some merit.” *United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000) (citing *In re Cain*, 137 F.3d 234, 235 (5th Cir. 1998)). Absent such authorization, this court lacks jurisdiction over the instant case. *Id.* at 775.

Newsome has filed a motion for leave to proceed without prepaying the filing fee. The motion is deficient because Newsome has neglected to include a certified copy of his inmate trust account statement as required by 28 U.S.C. § 1915(a)(2), which applies to all inmates seeking to bring a civil action or appeal without prepayment of the filing fee. Newsome’s request will be denied at this time.

Newsome’s motion for leave to file a second or successive petition, (Docket Entry No. 1), is denied, and this case is dismissed without prejudice to Newsome seeking authorization from the Fifth Circuit Court of Appeals to proceed on any new claim. A certificate of appealability is denied. Newsome’s motion for leave to proceed without prepaying the filing fee, (Docket Entry No. 4), is denied.

SIGNED on January 3, 2018, at Houston, Texas.



Lee H. Rosenthal
Chief United States District Judge